- 1 SB231
- 2 78966-7
- 3 By Senator Smitherman
- 4 RFD: Judiciary
- 5 First Read: 12-JAN-06



ACT No 2006- 3/2

SB231

-1	SB231
	. 2127 11

<u>ENROLLED</u>, An Act,

To adopt the initial voluntary sentencing standards of the Alabama Sentencing Commission and to amend Section 12-25-34 of the Code of Alabama 1975, to extend the time for the presentation of additional truth-in-sentencing standards to the Legislature.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) The Legislature finds the Alabama Sentencing Commission has followed the directives of the Legislature in the Sentence Reform Act of 2003, Article 2 (commencing at Section 12-25-30), Chapter 25, Title 12, Code of Alabama 1975, to develop and recommend to the Legislature a discretionary sentencing structure designed to protect public safety by providing a fair, effective, and efficient criminal sentencing system for this state by doing all of the following:

- (1) By developing a system of statewide voluntary sentencing standards and worksheets for use in felony cases for 26 felony offenses representing 87 percent of all felony convictions in Alabama over a five-year period.
- (2) By taking into account historical sentencing data concerning time imposed and other factors that, after

SB231

analysis of historical data, appear to be relevant in

determining both the duration and disposition of sentences in

the applicable felony cases.

- (3) By basing the voluntary sentencing standards on historical sentencing practices adjusted to achieve sentencing goals as established in Rule 26 of the Alabama Rules of Criminal Procedure and Section 12-25-31, Code of Alabama 1975.
- (b) The Legislature further recognizes that the development of voluntary sentencing standards by the Alabama Sentencing Commission is and should be a continuous process and the Alabama Sentencing Commission has been directed to continue the development of the voluntary sentencing standards recommendations by collecting and analyzing sentencing data and incorporating a continuum of punishment options, as required by subdivision (1) of Section 12-25-33, Code of Alabama 1975, and by identifying, testing, and recommending modifications of the initial voluntary sentencing standards and worksheets as may be necessary to accomplish the purposes and goals set out in Article 2, Chapter 25, Title 12, Code of Alabama 1975, and Rule 26 of the Alabama Rules of Criminal Procedure.

Section 2. The initial voluntary sentencing standards and the accompanying worksheets and instructions, as adopted by the Sentencing Commission on September 30, 2005, and filed with the Clerk of the Supreme Court, the Secretary

of the Senate, and the Clerk of the House of Representatives, are approved for implementation effective on October 1, 2006, under the terms and conditions set out in Sections 12-25-34 and 12-25-35, Code of Alabama 1975; provided however, that these standards shall not apply to any sex offense involving a victim under the age of 12.

Section 3. Section 12-25-34 of the Code of Alabama 1975, is amended to read as follows:

"\$12**-**25-34.

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

- "(a) Statewide voluntary sentencing standards shall be developed and presented to the Legislature in stages over a three-year period as follows:
- "(1) By July 31, 2003, the commission shall develop and distribute to all sentencing judges a reference manual analyzing historical sentencing practices by duration of sentence and disposition of felony offenders in Alabama. The reference manual shall indicate those types of offenders historically most likely to be sentenced to punishments other than active incarceration where alternatives to active incarceration are available.
- "(2) Concurrently with the development and distribution of the reference manual, the commission shall develop and begin testing worksheets and voluntary sentencing standards in selected circuits for selected felony offenses.

"(3) The commission shall develop and present the initial voluntary sentencing standards to the Legislature before or during the 2006 Regular Session. These standards shall be introduced in the 2006 Regular Session and shall become effective on October 1 following the 2006 Regular Session, if approved by an act of the Legislature passed during that session. The initial voluntary sentencing standards based on sentences imposed shall apply to convictions for felony offenses sentenced on or after the effective date of this act and committed before the effective date of the voluntary truth-in-sentencing standards.

- "(4) The commission shall develop and present voluntary truth-in-sentencing standards to the Legislature before or during the 2009 Regular Session. These standards shall be introduced in the 2009 Regular Session and shall become effective on October 1 following the 2009 Regular Session, if approved by an act of the Legislature passed during that session. The voluntary truth-in-sentencing standards shall apply only to felony offenses committed on or after the effective date of these standards.
- "(b) Recommended sentence ranges shall be established by standards that are based on historical sentencing practices, adjusted to achieve sentencing goals as established in Rule 26 of the Alabama Rules of Criminal Procedure, this chapter, and Section 12-25-31.

"(c) Voluntary sentencing standards shall take into account and include statewide historically based sentence ranges, including all applicable statutory minimums and sentence enhancement provisions, including the Habitual Felony Offender Act, with adjustments made to reflect current sentencing policies. No additional penalties pursuant to any sentence enhancement statute shall apply to sentences imposed based on the voluntary sentencing standards.

"(d) After adoption of the initial voluntary standards and the voluntary truth—in—sentencing standards, any modifications made by the commission shall be contained in the annual report presented to the Governor, the Legislature, the Chief Justice, and the Attorney General. An annual report containing proposed modifications shall be presented to the Governor, the Legislature, the Chief Justice, and the Attorney General before or during each regular session of the Legislature. The modifications shall be introduced during that regular session and shall become effective on October 1 following the legislative session in which the modifications were introduced, if approved by an act of the Legislature passed during the legislative session in which the modifications were introduced."

Section 4. All laws or parts of laws which conflict with this act are repealed.

- 1 Section 5. This act shall become effective on
- 2 October 1, 2006.

SB231

1	
2	
3	Fixed Daxley
4	President and Presiding Officer of the Senate
	1 m 11 . 1
5	Xell / Thurst
5	Speaker of the House of Representatives
7	SB231
8 9 -0	Senate $07\text{-}\text{FEB-}06$ I hereby certify that the within Act originated in and passed the Senate, as amended.
L1 L2 L3	McDowell Lee
L 4	Secretary
15	
16	
L7 L8	House of Representatives Amended and passed 30-MAR-06
19	
20	
21	Senate concurred in House amendment 30-MAR-06
22	
23	
24	By: Senator Smitherman APPROVED April 5, 2006
	TIME /1: 20 0 · 00
	Tradent delicte and it live.
	GOVERNOR SUCCESSION STATES OF THE STATES OF

Page 7

and Adams Inc. Adams Inc. Button Adams Inc. Adams Heelis (40711,02) Hady BambaA